

## Department of Justice

## § 61.6

(b) Executive Order No. 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations, 40 CFR parts 1500–1508, (“The NEPA regulations”). These regulations provide that each federal agency shall, as necessary, adopt implementing procedures to supplement the regulations. The NEPA regulations identify those sections of the regulations which must be addressed in agency procedures.

### § 61.2 Purpose.

The purpose of this part is to establish Department of Justice procedures which supplement the relevant provisions of the NEPA regulations and to provide for the implementation of those provisions identified in 40 CFR 1507.3(b).

### § 61.3 Applicability.

The procedures set forth in this part, with the exception of the appendices, apply to all organizational elements of the Department of Justice. Internal procedures applicable, respectively, to the Bureau of Prisons, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the Office of Justice Assistance, Research and Statistics are set forth in the appendices to this part, for informational purposes.

### § 61.4 Major federal action.

The NEPA regulations define “major federal action.” “Major federal action” does not include action taken by the Department of Justice within the framework of judicial or administrative enforcement proceedings or civil or criminal litigation, including but not limited to the submission of consent or settlement agreements and investigations. Neither does “major federal action” include the rendering of legal advice.

## Subpart B—Implementing Procedures

### § 61.5 Typical classes of action.

(a) The NEPA regulations require agencies to establish three typical

classes of action for similar treatment under NEPA. These classes are: actions normally requiring environmental impact statements (EIS), actions normally not requiring assessments or EIS, and actions normally requiring assessments but not necessarily EIS. Typical Department of Justice actions falling within each class have been identified as follows:

(1) *Actions normally requiring EIS.* None, except as noted in the appendices to this part.

(2) *Actions normally not requiring assessments or EIS.* Actions not significantly affecting the human environment.

(3) *Actions normally requiring assessments but not necessarily EIS.* (i) Proposals for major federal action;

(ii) Proposals for legislation developed by or with the significant cooperation and support of the Department of Justice and for which the Department has primary responsibility for the subject matter.

(b) The Department of Justice shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

### § 61.6 Consideration of environmental documents in decisionmaking.

The NEPA regulations contain requirements to ensure adequate consideration of environmental documents in agency decisionmaking. To implement these requirements, the Department of Justice shall:

(a) Consider from the earliest possible point in the process all relevant environmental documents in evaluating proposals for Department action;

(b) Ensure that all relevant environmental documents, comments and responses accompany the proposal through existing Department review processes;

(c) Consider those alternatives encompassed by the range of alternatives discussed when evaluating proposals